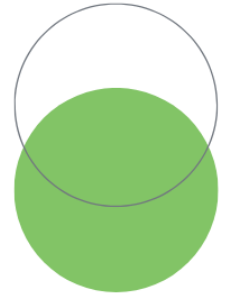




THE
LAW SOCIETY
OF HONG KONG
香港律師會



2022

Standing Committee on Practitioners Affairs



STANDING COMMITTEE ON PRACTITIONERS AFFAIRS



The Standing Committee considers and keeps under review matters relating to law reforms, legal practices and legal procedures, and makes relevant determinations. It receives and reviews draft statements and submissions prepared in response to consultations from the Judiciary Administration, Government departments, the Law Reform Commission (“LRC”), financial institutions and other public bodies. It also makes recommendations at policy levels to the Council on matters pertinent to legislative amendments, as well as law-related policies of the HKSAR Government, such as those included in the Chief Executive’s Policy Address and the Government Budget.

The Standing Committee had 12 online meetings this year, with deliberations between meetings by email circulation. During the year, the Standing Committee oversaw the work on, among others, 14 submissions prepared by the specialist committees in response to public consultations sent to The Law Society. It helped discuss and approve the draft submissions.

Overseeing the specialist committees

The Standing Committee supported the work of 30 Committees and Sub-committees, as well as nine Working Parties and a number of Task Groups. Some of these committees have set up ad hoc task groups to help examine various issues.

The Standing Committee provided guidance and direction to the above committees, sub-committees, and working parties on their administration, such as co-option, reviews of terms of reference and membership, as well as enrolment exercises.

This year a Sports Law Committee was set up. It keeps under review developments in members’ practices relating to various legal aspects arising from and relating to sports and e-sports.

Law reform initiatives

The Standing Committee received from its specialist committee a number of proposals on law reforms and legislative amendments which aimed to bring the relevant legislative regimes up-to-date. The *Marine Insurance Ordinance* (Cap.329) was one of the examples. The Ordinance has been in operation for more than 50 years with no amendment of substance. There was a pressing need to update the Ordinance in line with the requirement and the expectation of the industry and the society.

There were other policy discussions on law reforms held by the respective specialist committees that the Standing Committee oversaw. These included deliberations on the *Companies (Corporate Rescue) Bill*, the *Continuing Power of Attorney Bill* and the *Children Proceedings (Parental Responsibility) Bill*.

The Standing Committee reviewed and endorsed policy proposals put forward by the specialist committees. Among other things, a comprehensive review of the trust regime for Hong Kong was conducted by the Working Party on Charities and Trust. A detailed paper was sent to stakeholders for deliberation. The Intellectual Property Committee, on the other hand, put forward a comprehensive proposal to set up a copyright registration system in Hong Kong. Both proposals were well-received by the Government and the stakeholders.

Other legal policy proposals included a proposal to set up a Maintenance Board for Hong Kong and an evaluation of the GEM Board.

Legislative amendments and reform initiatives

The Standing Committee examined an array of legislative amendments to ordinances, regulations and statutory codes. One of the important legislative amendments that the Standing Committee deliberated this year was the *Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Bill 2022*, and the *Arbitration (Outcome Related Fee Structures for Arbitration) Rules* (“ORFSA Rules”). Among others, the *ORFSA Rules* and Divisions 3, 4 and 7 of Part 10B of the *Arbitration Ordinance* (Cap.609) came into effect on 16 December. This marked the full implementation of the ORFSA regime in Hong Kong.

Other legislative amendment proposals that the Standing Committee has considered included the following:

- the *Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Bill* and the *Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules*
- Hong Kong’s Copyright Regime
- Proposed construction of a District Court Building
- Proposed changes to the *Securities and Futures (Contracts Limits and Reportable Positions) Rules* and the *Guidance Note on Position Limits and Large Open Position Reporting Requirements*
- Proposed Amendments to Enforcement-related Provisions of the *Securities and Futures Ordinance* (Cap.571)
- Cyber-Dependent Crimes and Jurisdictional Issues
- Listing Regime for Specialist Technology Companies.

Discussions and meetings with Government bureaux, law enforcement agencies and stakeholders

Various committees had meetings with policy bureaux, government departments, law enforcement agencies, the Competition Commission, the Hong Kong Bar Association, the Duty Lawyer Service, financial regulators etc. to consider various legal matters. There were, for example, detailed discussions on the Payment Arrangements for Property Transactions and mediation practices in the Greater Bay Area.

The Standing Committee took note of the various matters raised in the Panel on Administration of Justice and Legal Services (“AJLS Panel”) of the Legislative Council (and other relevant panels), and rendered assistance to those discussions.

Reviews of Practice Directions, Guidance Notes etc.

Several specialist committees took initiatives to review *Practice Directions* issued by the Judiciary and made recommendations thereon. The Personal Injuries Committee, for example, was reviewing *Practice Directions 18.1* while the Mental Health Law Committee took up a review of *Practice Directions 30.1*. Other specialist committees kept a review of matters within their practices. For example, the Criminal Law and Procedure Committee this year considered the Biennial Criminal Legal Aid Review (to update the criminal legal aid fees prescribed under rule 21 of the *Legal Aid in Criminal Cases Rules* (Cap.221D)). The Personal Injuries Committee

continued its review of the bereavement awards under the *Fatal Accidents Ordinance* (Cap.22). The Family Law Committee itself put forward a “Guide to Good Practice on Family Law” after its review of matrimonial practices and discussions with the stakeholders. The Civil Litigation Committee was keeping a watch on the Solicitors’ Hourly Rates review.

Use of court technology

The use of court technology continued to be one of the important initiatives the Standing Committee was closely monitoring. Among other things, the Standing Committee noted the draft *Courts (Remote Hearing) Bill* put forward by the Judiciary Administration for comments. The Bill covered both civil proceedings and criminal proceedings. Draft *Practice Directions* and draft Operation Guidelines were at the same time put forward for views. On the other hand, the Judiciary Administration arranged pilot runs of its Integrated Court Case Management System for the Summons Courts of the Magistrates Courts. The Standing Committee welcomed progress in the above.

Practitioners affairs

In addition to policy deliberations, the Standing Committee helped with initiatives which assisted members’ practices. An example was the repeated training organised by the Hong Kong Advocacy Training Council (“HKATC”) on Prosecution on Fiat. Through the efforts of the specialist committee, the HKATC again agreed to open the training programme to Law Society members. The above training was put out in January and September. The training was well-received.

Joint Tribunal

The Standing Committee continued to help the Joint Tribunal in the discharge of its function. The Joint Tribunal is set up to resolve disputes between solicitors and barristers in relation to fees, in accordance with the agreed Terms of Reference and Procedure.

ARBITRATION COMMITTEE

The Arbitration Committee keeps under review developments in arbitration practices, and makes recommendations thereon to Council. To help with the workload, this year the Committee appointed a Vice Chair, co-opted a member and established a working group to review specific matters.

Key legislative developments relating to arbitration

The Committee discussed and/or provided views on the following.

- (a) *Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Ordinance 2022*

The Government introduced the *Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Bill 2022* (“Amendment

Bill”) to the Legislative Council in March. The *Amendment Bill* aimed to amend the *Arbitration Ordinance* (Cap.609) and the *Legal Practitioners Ordinance* (Cap.159) to, among other things: (i) provide that certain agreements using outcome related fee structures for arbitration are not prohibited by the common law doctrines of maintenance, champerty and barratry; (ii) provide for the validity and enforceability of such agreements; and (iii) provide for measures and safeguards in relation to such agreements. The Committee studied the *Amendment Bill* and rendered support. It asked for an early implementation of the regime.

The *Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Ordinance 2022* was passed in June and implemented on 16 December.

(b) *Arbitration (Outcome Related Fee Structures for Arbitration) Rules*

The Committee also studied the *Arbitration (Outcome Related Fee Structures for Arbitration) Rules* (“*ORFSA Rules*”). The *ORFSA Rules* were introduced to the Legislative Council in November, as a subsidiary legislation under the *Arbitration Ordinance*. The *ORFSA Rules* set out, among other things, a detailed regulatory framework on ORFSA for arbitration. The Committee supported the *ORFSA Rules*.

In August, the Chair represented The Law Society to attend a workshop on ORFS organised by the Advisory Body on ORFS for Arbitration and the Department of Justice (“DoJ”). Matters relating to the draft *ORFSA Rules* and proposed regulation of the ORFS regime of Hong Kong were discussed in the workshop.

The *ORFSA Rules* together with Divisions 3, 4 and 7 of Part 10B of the *Arbitration Ordinance* came into effect on 16 December.

Participation in meetings of the AJLS Panel

The Committee attended meetings of the AJLS Panel of the Legislative Council on the following matters:

- (a) “*Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Bill 2022*” (March); and
- (b) “*Arbitration (Outcome Related Fee Structures for Arbitration) Rules*” (November).

Views and comments on the above were provided to the AJLS Panel.

Promotion of solicitor-arbitrators

To help promote arbitration practices for members in Hong Kong and on the Mainland, including the Greater Bay Area (“GBA”), the Committee considered various initiatives and matters, including the following.

(a) Exploring business opportunities in the GBA

The Committee continued its liaison with leading legal and dispute resolution institutes in the GBA to discuss issues of mutual relevancy and to explore opportunities. In 2021, the President of The Law Society led a delegation to visit the Shenzhen Court of International Arbitration (“SCIA”) (Hong Kong). Both organisations agreed to establish a closer working relationship in the promotion and development of arbitration in Hong Kong and the GBA. Following the above visit, two webinars on topics related to arbitration were organised both in September this year for members of the two organisations. Further dialogues to exchange views and initiatives on the use of and the development of arbitration practices in the GBA were being arranged.

(b) Promotion to the business sector

With a view to promoting more use of arbitration as a means to resolve disputes, the Committee has reached out to the business community to introduce and promote arbitration as a form of dispute resolution. All these initiatives have been well received by business entities and trade associations. They have also helped in the branding of solicitor-arbitrators.

(c) Promotion of Hong Kong arbitration service during the COVID-19 pandemic and in the post-pandemic era

The Committee discussed the impacts of the COVID pandemic upon the arbitration profession in Hong Kong. Initiatives to enhance the status of Hong Kong as the hub for international commercial arbitration in and after the COVID pandemic were deliberated.

(d) Online arbitration

Online arbitration continued to receive the attention of the Committee. That was one of the fast-growing practice areas in arbitration. Various proposals on the development and promotion of online arbitration in Hong Kong and the GBA were considered.

(e) Review of the *Hong Kong Solicitors’ Guide to Professional Conduct*

The Committee assisted in the discussion on the updating of the *Hong Kong Solicitors’ Guide to Professional Conduct*. These updates aimed to, among others, provide for third party funding and ORFS agreements for arbitration work.

Participation in arbitration-related events and activities

This year, the Committee supported the following events on arbitration:

- (a) *FDI Moot Shenzhen 2022* (July and August); and
- (b) “*New Arbitration Funding Options in Hong Kong – Making Your Best Informed Choice*” seminar (scheduled for February 2023).

Training courses in arbitration

Continual training on arbitration is essential for solicitor-arbitrators and the general membership of The Law Society. It is important for members to be made aware of and be updated on knowledge and skills for arbitration. This year, the Committee participated in (i) a webinar entitled “*Two Cities, Two Centers: International Arbitration Development in the GBA*”. The webinar aimed to introduce the panels of arbitrators and the arbitration related services of the SCIA and the SCIA (Hong Kong) to the members; and (ii) a webinar entitled “*Jurisdiction, Governing Law and Procedure of International Investment Arbitration*” for the members of the SCIA and the SCIA (Hong Kong).

Arbitrators Admission Sub-Committee

The Arbitrators Admission Sub-Committee is established under the Committee to assist with matters relating to the establishment and maintenance of the Panel of Arbitrators of The Law Society of Hong Kong (“Panel”) which comprises solicitors with demonstrably strong experience in resolving disputes of different nature. This year, the Sub-committee made recommendations on (i) the empanelment requirements of the Panel; and (ii) the requirement and procedure for renewal of membership of the Panel.

CIVIL LITIGATION COMMITTEE

The Committee met on six occasions and conducted the rest of its business via emails.

Consultation papers

The Committee has been busily engaged in reviewing, considering and discussing with the Judiciary, the DoJ, the Legislative Council and other statutory/professional bodies and provided comments on various consultations. These included the following.

Judiciary’s Information Technology Strategy Plan (“ITSP”)

(a) Consultation on legislative amendments

The Judiciary in May wrote and sought views on its proposed legislative amendments to the existing subsidiary legislation enabling the ITSP. Views of the Committee were canvassed and were sent to the Judiciary in June.

(b) Implementation of the integrated Court Case Management System (“iCMS”)

The Committee was keeping a close watch on the Judiciary’s implementation of the iCMS, which served to facilitate handling of documents in electronic forms between court users and the courts. The iCMS was rolled out for personal injuries and tax claim proceedings in the District Court in May and subsequently civil proceedings in the District Court in July. The application of iCMS was extended to cover employees’ compensation cases of the District Court and summons cases of the Magistrates’ Courts in December.

(c) Guided tours to iCMS Help Centre

A circular was issued in December to invite general members and their representatives to participate in the guided tours arranged by the Judiciary Administration to the iCMS Help Centre at the District Court.

Judiciary’s Consultation Paper on the draft *Courts (Remote Hearing) Bill*

The Judiciary, in June, released a consultation paper on the draft *Courts (Remote Hearing) Bill* for views. The Committee set up a sub-group to review the Consultation Paper. The President, the Vice-President and members of the various specialist committees, including this Committee, attended a briefing session with the Judiciary in July. Comments from various specialist committees on the Consultation Paper were consolidated into a written submission, which was sent to the Judiciary in September.

DoJ’s Consultation Paper on *Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Bill* and *Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules*

In January, the Committee set up a sub-group to review a Consultation Paper on the *Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Bill* and the *Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules*, released by the DoJ. Members of the sub-group and the Chair of the Intellectual Property Committee attended a meeting with the DoJ to discuss the draft Bill. A submission, jointly prepared with other specialist committees, was sent to the DoJ in February.

The Committee closely monitored the legislative development of the Bill. In March, two members of the Committee attended a meeting of the AJLS Panel of the Legislative Council. They helped relay to the Panel The Law Society’s comments on the draft Bill. The Bill was published in the gazette on 22 April and was introduced into the Legislative Council on 4 May. Further submission on the Bill was sent to the Bills Committee of the Legislative Council in May. Subsequently, the Bill was passed by the Legislative Council on 26 October and the Ordinance was published in the gazette on 4 November.

Equal Opportunities Commission’s Consultation Paper on *Equal Access to Justice for Persons who are Deaf and Hard of Hearing: A Guide for Persons with Disabilities, Legal Practitioners, and Parties Involved in the Judicial Process*

The Equal Opportunities Commission (EOC), in June, wrote and sought comments on its draft “*Equal Access to Justice for Persons who are Deaf and Hard of Hearing: A Guide for Persons with Disabilities, Legal Practitioners, and Parties Involved in the Judicial Process*”. Comments of the Committee, together with those from other specialist committees, were consolidated and were sent to the EOC in July. The Committee noted the Guide was published in November.

LRC – Progress on systematic review of statutory laws of Hong Kong

The Committee corresponded with the LRC on the progress on systematic review of statutory laws of Hong Kong and received from the LRC an update on the progress in December.

Consultancy study on a class action regime in Hong Kong

The Committee, in July, noted a consultancy study on the economic and other related impacts on Hong Kong of a class action regime.

Public consultation on 2022-23 Budget

In response to a consultation on the Government 2022-23 Budget, the Committee provided views and assisted in preparing a written submission. The submission was sent to the Financial Secretary in February.

Public consultation on 2022 Policy Address

Views of the Committee on the 2022 Policy Address, together with those from other specialist committees, were consolidated into a submission. The submission was sent to the Chief Executive in October.

Issues on civil litigation practice

Four-yearly review (2018-2022) of solicitors' hourly rates for party and party taxation

The solicitors' hourly rates ("SHRs") for party and party taxation in civil proceedings were last reviewed by the Judiciary in 2018. According to the Judiciary, the SHRs were to be updated once every four years and were therefore due to be updated this year. The Committee had, in February, been in contact with the Judiciary Administration on the above. In April, the Committee was informed of the result of the review of SHRs. The Committee was following up on the matter.

Apart from the above, the Committee discussed, commented on and/or raised suggestions on various issues pertinent to civil litigation practices, including the following:

- Vine Formula
- Summary assessment of costs
- Paper application for admission as solicitors
- Court of Appeal Judgment of CAMP 261/2020, [2021] HKCA 1919
- Case management for civil cases in the District Court
- Application for leave to issue bankruptcy proceedings
- Requisitions by the court in obtaining a Registrar's certificate for winding up proceedings
- Court registries ticketing arrangements upon re-opening after General Adjournment of Court Proceedings
- Judiciary's proposed construction of a District Court Building.

Circulars

The Committee issued circulars to assist members with the updated civil court practice procedures, including the following:

- Agreement for Costs for Non-Contentious Business (issued in January)

- Guidance Note for Remote Hearings for Civil Business in the High Court (Judges sitting outside Court Rooms) (issued in March)
- General Adjournment of Court Proceedings (issued in March)
- Gradual Resumption of Court Business at reduced capacity (issued in March)
- Review on Solicitors' Hourly Rate (issued in May)
- Court to resume normal operations and require rapid antigen tests for jury proceedings (issued in May)
- *Practice Directions* on Handing Down of Reserved Judgments (issued in June)
- Enhanced Legal Reference System (issued in June)
- Implementation of iCMS for civil actions in District Court (issued in July)
- Vaccine Pass Arrangement (issued in August)
- Practice and procedure to be adopted when the Court of Appeal grants leave to appeal to the Court of Final Appeal in civil cases (issued in August)
- Enhanced security measures at District Court and West Kowloon Law Court Building (issued in October)
- Implementation of iCMS for employees' compensation cases and summons cases of Magistrates' Courts (issued in December)
- Interest rates on judgment debts (issued in December)
- Anti-epidemic arrangements for entering court buildings (issued in December)
- Updated Guidance Note on Case Settlement Conference in Civil Cases in the District Court (issued in December).

COMPANY LAW COMMITTEE

The Committee had a meeting this year and conducted the rest of its business via emails.

Review of Growth Enterprise Market

The Growth Enterprise Market ("GEM") was launched in 1999 with the aim of enabling small and medium enterprises and innovative enterprises which did not meet the Main Board's listing requirements to be listed for raising funds. In light of market developments over the years, the Committee considered it relevant to have an overall review of the functions and the roles of GEM. A meeting was sought with the Government and a stakeholder, to exchange views on listing on GEM.

Consultations

The Committee noted and considered stakeholder consultations. For example, in October, it reviewed a consultation paper on "Listing Regime for Specialist Technology Companies" issued by The Stock Exchange of Hong Kong Limited and prepared a submission. In December, the Committee received a consultation paper from the Hong Kong Stock Exchange on "Proposals to Expand the Paperless Listing Regime and Other Rule Amendments". A submission was being drafted in response.

On the legislative amendments and companies law practices, the Committee took note of the *Companies (Amendment) Bill 2022*, and the New Inspection Regime of the Companies Register under the *Companies Ordinance* (Cap.622) (being implemented in phases).

External representation

The Law Society continued to be represented on the Companies Registry Customer Liaison Group.

COMPETITION LAW COMMITTEE

The Committee met on three occasions and conducted the rest of its business via emails. In addition, the Committee had a meeting with the Competition Commission in May.

Joint dawn raids

The Committee reviewed the practice of dawn raids conducted by the Competition Commission as empowered under the *Competition Ordinance* (Cap.619). Dawn raids could be carried out by the Competition Commission itself or as a joint operation with the Hong Kong Police Force, other law enforcement agencies and relevant organisations. An example of a joint dawn raid that the Committee noted was a joint dawn raid carried out by the Competition Commission and the Police in January. To canvass fuller views on the matter, the Committee in August issued a circular to invite general membership to share experiences, comments, observations or suggestions on law and practice relating to dawn raids by the Competition Commission (either by itself or jointly with the Police). The Committee was to continue to deliberate the matter.

Judiciary's consultation on the draft *Courts (Remote Hearing) Bill, Practice Directions and Operation Guidelines*

The Committee provided views on the draft *Courts (Remote Hearing) Bill*. Views of the Committee and various other specialist committees were consolidated into a submission, which was sent to the Judiciary in September.

Leniency Policy for Individuals Involved in Cartel Conduct (Revised September 2022)

The Committee noted the Competition Commission on 8 September published the Leniency Policy for Individuals Involved in Cartel Conduct (revised September 2022).

Advisory Bulletin on Joint Negotiations in the Labour Sector

The Committee noted the Competition Commission on 29 August published an Advisory Bulletin on employers' joint negotiations with employee bodies on employment matters.

Report on the work of the Competition Commission

The Committee took note of a Legislative Council Paper No.CB(4)556/2022(01) setting out an overview of the activities of the Competition Commission since June 2021 and an outlook for 2022-23.

CPD seminar on competition law issues

The Chair and the Vice-Chair of the Committee were invited to speak at a CPD seminar on competition law issues, to be organised by the Academy of Law.

CONSTITUTIONAL AFFAIRS AND HUMAN RIGHTS COMMITTEE

The Committee had three meetings this year and conducted the rest of its business via emails.

One of the matters the Committee has considered was the Court of Final Appeal judgment issued in relation to an application for *ad hoc* admission for a British barrister to represent a defendant in his National Security Law (“NSL”) trial ([2022] HKCFA 23). After the above judgment, the Committee noted that on 28 November the Chief Executive submitted a report to the Central People’s Government and recommended that a request be made to the Standing Committee of the National People’s Congress (“NPCSC”) to issue an interpretation in accordance with Article 65 of the NSL, in order to clarify a question on *ad hoc* admission of overseas lawyers, who are not qualified to practise generally in Hong Kong, to participate by any means in the handling of work in cases concerning offences endangering national security. Consequently, the NPCSC issued an interpretation of Articles 14 and 47 of the NSL on 30 December. The Committee studied the above judgment and the interpretation and rendered views to the Council of The Law Society to assist deliberation.

Apart from the above, various consultations were brought to the attention of the Committee, including the following:

- (a) Consultation by the EOC on Draft Guide: “Equal Access to Justice for Persons who are Deaf and Hard of Hearing” (in June)
- (b) Consultation on the draft *Courts (Remote Hearing) Bill* by the Judiciary Administration (in June)
- (c) Consultation on enhancing regulation of crowdfunding activities, by the Financial Services and the Treasury Bureau (“FSTB”) (in December).

Views and comments were rendered in response as appropriate.

The Committee also kept under review various matters which were of significance and/or relevancy to constitutional law and human rights issues in Hong Kong, for example:

- Pilot Scheme on Provision of Publicly-funded Legal Assistance for Non-refoulement Claimants
- Amendments to the *Immigration Ordinance* (Cap.115)
- The rights of children (following the public consultation on the implementation of the United Nations *Convention on the Rights of the Child*)
- The rights of transgender persons.

CRIMINAL LAW AND PROCEDURE COMMITTEE

The Criminal Law and Procedure Committee considers and keeps under review matters relating to the law, procedure and practice of criminal litigation. This year, the Committee had seven meetings and discussed various issues on criminal law and practice.

Consultation on the draft *Courts (Remote Hearing) Bill*

In February last year, the Judiciary consulted The Law Society and other stakeholders on proposed legislative amendments on remote hearings in courts and tribunals. Following the consultation, the Judiciary Administration in June put out a draft *Courts (Remote Hearing) Bill* and invited comments. The Bill aimed to provide a legal basis for Judges and Judicial Officers to order remote hearings at various levels of courts and tribunals where appropriate, having regard to all relevant circumstances, as well as the dual requirements of open justice and fair hearing. The Bill covered not only civil proceedings, but also criminal proceedings. Draft *Practice Directions* and draft *Operation Guidelines* were at the same time also put forward for views.

The Committee noted the possible advantages of remote hearings in a criminal process. Remote hearing could be used in a criminal matter if the court was satisfied that justice could be served via remote hearing, after weighing the factors proposed in the Bill. Further comments on the Bill, together with observations from other specialist committees, were consolidated and sent to the Judiciary Administration in September.

Consultation Paper on Cyber-dependent Crimes and Jurisdictional Issues

The LRC's Cybercrime Sub-committee published a Consultation Paper on Cyber-dependent Crimes and Jurisdictional Issues in July. The Paper set out preliminary proposals for law reform to address the challenges to protection of individuals' rights caused by the rapid developments associated with information technology, the computer and internet, and the potential for them to be exploited for carrying out criminal activities. With the assistance of a sub-group, the Committee reviewed the Paper and provided a submission in response. The submission, which received endorsement from Council, was sent to the LRC in September.

Consultation on Crowdfunding

The FSTB in December published a consultation paper on its proposal to enhance regulation of crowdfunding activities, and launched a three-month public consultation exercise. A sub-group was set up to study the consultation paper and to provide comments to the Committee in due course.

Consultation on the EOC's Guide "Equal Access to Justice for Persons Who are Deaf and Hard of Hearing"

The Committee noted a consultation paper by the EOC on its draft Guide entitled "Equal Access to Justice for Persons Who are Deaf and Hard of Hearing", and the draft submission jointly produced by the relevant specialist committees on the draft Guide.

Other Reviews

The Committee also discussed and reviewed the following:

- Disclosure of criminal records by the prosecution
- Examining Panel (Criminal) for the Higher Rights of Audience Assessment Board
- Public Consultation on 2022-23 Budget
- Bar Free Legal Service Scheme
- Vine Formula
- Vaccination Pass arrangement
- Lockdown in possible recurrence of pandemic in the future
- Car-parking arrangements at the Correctional Services Department facilities
- Bail applications by paper disposal or remote hearing
- Book Suggestion Scheme by the Leisure and Cultural Services Department
- Review of sentences by the Long-Term Prison Sentences Review Board
- Applications under section 36 of the *Mental Health Ordinance* (Cap.136)
- Doxxing
- Implementation of the recommendations made by the LRC
- Practice Directions on handing down of reserved judgments
- E-filing and bill of costs incidental thereto
- Representation on the Duty Lawyer Service Council
- Human trafficking laws
- Appointment of Examiners for the *Overseas Lawyers Qualification Examination*
- Proposed legislation on reporting for child abuses
- Court judgments on *ad hoc* admission of an English barrister for a defendant in a trial concerning national security offences, the interpretation of the NSL, as well as the proposed amendments to the *Legal Practitioners Ordinance* in consequence thereto.

Where appropriate, recommendations were made to other specialist committees, the Standing Committee on Practitioners Affairs and/or the Council of The Law Society.

Apart from the above array of reviews and discussion, the following were also brought to the attention of the Committee, i.e. the LRC's Report on Sentencing and Related Matters in the Review of Sexual Offences, Report on Judicial Remuneration Review 2022, and the Judicial Officers Recommendation Commission Report 2021.

Training for Fiat Counsel

A training course on "Prosecution on Fiat" was put out last year by the Hong Kong Advocacy Training Council. Participants who have completed the programme and performed satisfactorily at the mock trials can apply to join an assessment to be separately arranged by the DoJ to be considered for inclusion on the Prosecutions Division Magistrates' Courts "B" Fiat List. With the overwhelming support of the training from general members, the Committee this year liaised with Hong Kong Advocacy Training Council for further training. After discussion, the above training was repeated twice, in January and in September. The two training courses again were well-received.

Criminal legal aid review

The Committee kept under its consideration the biennial review of criminal legal aid rates. The biennial review aimed to update the criminal legal aid fees prescribed under rule 21 of the *Legal Aid in Criminal Cases Rules* (Cap.221D). This year, the Committee met with the relevant Government bureau and continued with discussions on the matter.

AJLS Panel

The Committee rendered assistance to the discussion of the AJLS Panel of the Legislative Council on the proposed construction of a District Court Building at Caroline Hill Road (March) as well as the consultation on Cyber-dependent Crimes and Jurisdictional Issues (November).

Discussions and liaison with stakeholders

The Committee held various discussions and/or meetings with different stakeholders including the Judiciary Administration, law enforcement agencies, the DoJ, the Hong Kong Bar Association, the Duty Lawyer Service and the Legal Aid Department, to discuss matters of mutual concern. These matters included administrative measures which were put in place during the COVID-19 pandemic, as well as legal visits to detention facilities.

The Committee assisted the Judiciary Administration with its pilot runs of its iCMS for the Summons Courts of the Magistrates' Courts arranged this year. Members' circulars were issued in February and March to invite expressions of interest.

The Committee helped the Council with deliberations on different matters concerning criminal law and practice. It also assisted other specialist committees of The Law Society with their discussions on various practice issues. Where relevant, members' circulars on criminal practices were put out.

Two members of the Committee were on The Law Society's Working Party on Use of IT in Judicial Process and helped review the use of court technology.

EMPLOYMENT LAW COMMITTEE

The Committee conducted its business via emails.

Consultation on eMPF Platform front-end portal

In May, the Chair and a few members of the Committee, together with members of the other specialist committees, attended an online meeting with the Mandatory Provident Fund Schemes Authority ("MPFA") on the latest development of the eMPF Platform. A joint follow-up letter was sent to the MPFA in June.

The Committee considered and reviewed the following employment law related matters:

- (a) ***Employment and Retirement Schemes Legislation (Offsetting Arrangement) (Amendment) Bill 2022*** – The *Employment and Retirement Schemes Legislation (Offsetting Arrangement) (Amendment) Bill 2022* was published in the gazette in February. The Bill seeks to abolish the use of the accrued benefits of employers' mandatory contributions under the Mandatory Provident Fund System to offset severance payment and long service payment. The Bill was passed by the Legislative Council on 9 June.
- (b) ***Employment (Amendment) Bill 2022*** – The *Employment (Amendment) Bill 2022* was published in the gazette in February. It seeks to make it explicit that the absence from work of employees for compliance with a requirement with restriction on movement imposed under the *Prevention and Control of Disease Ordinance* (Cap.599) would be deemed as sickness day(s) under the *Employment Ordinance* (Cap.57), and to provide for sickness allowance payable to eligible employees under the above circumstances, subject to the fulfilment of the relevant criteria under the *Employment Ordinance*. The legislative amendment also made it clear that dismissal of an employee by reason of the employee being subject to such restriction on movement would be considered unreasonable dismissal. The Bill was passed in June.
- (c) ***Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Bill 2022*** – The *Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Bill 2022* was published in the gazette on 13 May. The Bill seeks to amend the *Factories and Industrial Undertakings Ordinance* (Cap.59) and the *Occupational Safety and Health Ordinance* (Cap.509), as well as their subsidiary legislation, to increase the penalties for occupational safety and health offences so as to enhance their deterrent effect for better protection of workers' safety and health at work. The Bill received passage at the Legislative Council in June.
- (d) **Consultation on review of the Talent List** — In November, the DoJ sought views on its review of the Talent List in relation to the legal and dispute resolution services sector.

Legislative Council Panel on Manpower

The Committee took note of the following discussions by the Legislative Council Panel on Manpower:

- Proposed abolition of the “offsetting” arrangement under the Mandatory Provident Fund System (in February)
- Obligations and rights of employers and employees under the COVID-19 pandemic, and related support measures provided to employees (in February)
- Minimum Wage Mechanism for reviewing the Statutory Minimum Wage rate (in December).

Judiciary's Consultation on draft *Courts (Remote Hearing) Bill*

The Committee's attention was brought to the Judiciary's consultation on the draft *Courts (Remote Hearing) Bill*. A member attended a briefing session by the Judiciary in July.

FAMILY LAW COMMITTEE

The Family Law Committee met seven times during the year. In addition, informal meetings were held with various stakeholders, including the Judiciary, the Hong Kong Bar Association, the Hong Kong Family Law Association and a Legislative Councillor, to discuss a wide range of family law related issues. The Committee also conducted its business via emails.

Consultation papers

The Committee reviewed a number of consultation papers and made submissions in response.

Judiciary's consultation on *Family Procedure Bill* on procedural reforms for family justice system

The Committee considered the Judiciary's consultation paper on the *Family Procedure Bill* on procedural reforms for the family justice system. The Vice-Chair, in February, attended a meeting with the Judiciary Administrator to consider this consultation. In April, the Committee met other stakeholders and exchanged views on the Bill.

A submission on the consultation was sent to the Judiciary in April. Those views were also raised at and highlighted to the AJLS Panel of the Legislative Council in August.

Judiciary's Consultation Paper on the draft *Courts (Remote Hearing) Bill*

The Judiciary in June invited views on its consultation paper on the draft *Courts (Remote Hearing) Bill*. The Committee attended a briefing session organised by the Judiciary in July. Comments from various specialist committees on the Consultation Paper were consolidated into a written submission, which was sent to the Judiciary in September.

Judiciary's consultation on the draft *Guidance Note on Proceedings before Masters in the Family Court*

The Committee considered the draft *Guidance Note on Proceedings before Masters in the Family Court* and provided comments to the Judiciary in September.

Judiciary's consultation on proposed changes to *Practice Direction 15.9* on estimate of costs for family proceedings

The Committee reviewed the proposed changes to *Practice Direction 15.9* and provided comments to the Judiciary in November.

EOC's Consultation Paper on Equal Access to Justice for Persons who are Deaf and Hard of Hearing: A Guide for Persons with Disabilities, Legal Practitioners, and Parties Involved in the Judicial Process

The Committee received a consultation paper from the EOC on "*Equal Access to Justice for Persons who are Deaf and Hard of Hearing: A Guide for Persons with Disabilities, Legal Practitioners, and Parties Involved in the Judicial Process*". Comments of the Committee, together with those from other specialist committees, were consolidated and sent to the EOC in

July. The Committee noted a Guide prepared from the above consultation paper was published in November.

Public consultation on 2022-23 Budget

The Committee provided views and assisted in preparing a written submission in response to a consultation on the Government 2022-23 Budget. The submission was sent to the Financial Secretary in February.

Public consultation on 2022 Policy Address

The Committee, jointly with other specialist committees, prepared a submission on the 2022 Policy Address. The submission was sent to the Chief Executive in October.

Deliberations on matrimonial matters

The Committee reviewed an array of matrimonial matters.

Proposed *Children Proceedings (Parental Responsibility) Bill*

The *Children Proceedings (Parental Responsibility) Bill* was shelved by the Government in 2018. Notwithstanding the shelving of the Bill, the Committee had continued its efforts to advocate the Bill and has continued to explain the Bill and the underlying concepts to various stakeholders. For example, in February, the Committee met with a Legislative Councillor and had a discussion on the Bill. In October, the Chair of the Committee had a meeting with the Chair of the Constitutional Affairs and Human Rights Committee of The Law Society to discuss the rights, welfare and abuses of children. The Committee was to also engage the Labour and Welfare Bureau and other stakeholders in the deliberations.

Guide to Good Practice on Family Law

The Committee continued its discussion with the Judiciary, the Hong Kong Bar Association and the Hong Kong Family Law Association on the drafting of the *Guide to Good Practice on Family Law*. The *Guide* sets out good practice on a constructive and conciliatory approach to be adopted in family law work. The *Guide* was finalised and published for the general members by circular in October.

Form E – Financial Statement

The Committee has itself embarked upon a review of the Form E (Financial Statement). The Form has been in use for matrimonial matters since 2003. With the assistance of an *ad hoc* task group set up under the Committee, and after much discussion with other stakeholders, the Committee drew up draft amendments to the Form E, which had, in June, been passed to the Judiciary for consideration.

Restrictions on children travelling out of Hong Kong under court orders

Discussions between the Committee and the Immigration Department were held to consider the restrictions imposed on children temporarily travelling out of Hong Kong jurisdictions under court orders. The Committee put forward to the Immigration Department a template of a court

order on temporary removal of a child/children out of Hong Kong jurisdiction (“Truncated Order”) at the time of the travel. The template of the Truncated Order was agreed with the stakeholders. In September, a member’s circular was issued to inform the general members of the approved template of the Truncated Order.

Proposed construction of a District Court Building

The Chair of the Committee, together with the Chair of the Criminal Law and Procedure Committee, attended a remote meeting of the AJLS Panel of the Legislative Council on 28 March on the proposed construction of a District Court Building at Caroline Hill Road.

Filing and serving of documents during General Adjournment of Court Proceedings

The Committee, in March, sent a letter to the Judiciary Administration to seek clarification on filing and serving of documents during the General Adjournment of Court Proceedings, and, in response, received an updated notification for stakeholders on 31 March.

Remote hearings in Family Court

The Committee, in April, wrote to the Judiciary on the observations and suggestions regarding pre-remote hearing testing and lack of video conferencing facilities in the District Court building. Various suggestions (e.g. of scheduling the pre-remote hearing testing) were taken on board.

Other issues

The Committee took note of and/or considered the following:

- The timeframe for the Family Court to hand down reserved judgments (*Practice Direction 37*)
- Vine Formula
- Issues relating to matrimonial cases on legal aid
- A research study for Hong Kong Women’s Experiences of Violence 2021
- The GBA Mediator Accreditation Standards and *GBA Mediator Code of Conduct Best Practice*
- The *Guideline on Banking Services for Persons with Dementia* by the Hong Kong Association of Banks (“HKAB”)
- The thematic webpage of the *Mainland Judgements in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance* (Cap.639)
- Initial feedbacks on *Practice Direction SL10.4 – Guidance Note on Case Management and Time Tabling in Children and Ancillary Relief Proceedings*
- A representation from the Hong Kong Committee on Children’s Rights on hospitalisation of children at time of pandemic and their rights.

Circulars

The Committee approved and issued circulars to members on the following subject matters:

- Updates to *Practice Direction 15.12 – Matrimonial Proceedings and Family Proceedings* (issued in February)

- *Practice Direction SL10.5 – Guidance Note on Reciprocal Recognition and Enforcement of Mainland Judgments in Matrimonial and Family Cases* (issued in March)
- Family court practice – Temporary removal of a child/children out of Hong Kong jurisdiction (issued in September)
- *Guide to Good Practice on Family Law* (issued in October).

Training course/CPD seminar

- **Training course for the Social Welfare Department**

In December, a Committee member was invited to present a training course for the Social Welfare Department on “Basic Understanding of Related Ordinances and Court Proceedings on Child Custody and Guardianship”.

- **Seminar on “Mediator-assisted Financial Dispute Resolution and Children’s Dispute Resolution – Concerns, Feasibility and Benefits”**

The Law Society was a co-organiser of the seminar on “Mediator-assisted Financial Dispute Resolution and Children’s Dispute Resolution – Concerns, Feasibility and Benefits”, which was held in July.

INSOLVENCY LAW COMMITTEE

The Committee met once and conducted the rest of its business via emails.

The Committee has been discussing with the Judiciary and the Official Receiver’s Office (“ORO”) on various matters on insolvency law and practices. In addition, members of the Committee also separately met with the FSTB and a legislator to discuss the *Companies (Corporate Rescue) Bill*.

Companies (Corporate Rescue) Bill

The Committee has been advocating the introduction of a statutory corporate rescue regime into Hong Kong. It noted that after the Government had in 2020 announced its plan to introduce a *Companies (Corporate Rescue) Bill* into the Legislative Council in early 2021, there had not been any legislative development since then. To assist the discussion on the Bill, the Chair of the Committee participated in a meeting with the FSTB in August. Subsequently, the Chair together with two members of the Committee met with a Legislative Councillor in December and exchanged views on the matter.

Proposed security requirements for appointment of liquidators or trustees in bankruptcy

The ORO invited comments on the basis to be adopted by the ORO in estimating the value of realisable assets commonly found in bankruptcy and compulsory winding-up cases. The Committee reviewed a proposal on the above and made a reply in April.

Approval process for applications for leave to commence bankruptcy proceedings

The Committee and the Civil Litigation Committee noted with concern the length of time taken by the court to grant leave to present a bankruptcy petition under the existing regime. The two committees were to liaise with the Judiciary and raised this matter with them.

Public consultation on Government 2023-24 Budget

The Committee was consulted on the Government 2023-24 Budget. The views of the Committee, together with those from other specialist committees, would be consolidated into a submission.

Circulars

The Committee issued circulars to members on the following subject matters:

- Summary Procedure Order Applications by Provisional Trustees in Bankruptcy Cases (issued in May)
- Practice Note on Applications to Companies Judge (issued in June)
- ORO Circular No.1/2022 – Abuse of Bankruptcy Process (issued in November).

Attending outside meetings

Two members of the Committee, as representatives of The Law Society, attended regular meetings of the ORO Services Advisory Committee throughout the year.

INSURANCE LAW COMMITTEE

The Committee met once and conducted the rest of its business via emails. The Committee also had a meeting with the FSTB in August.

Proposed reform of insurance law in Hong Kong

The *Marine Insurance Ordinance* (Cap.329) (“MIO”) is the principal ordinance that codifies the law relating to marine and non-marine insurance in Hong Kong. The MIO has been in operation for more than 50 years with no amendment of substance. After four years of continuous efforts in pushing for a review of the insurance law regime in Hong Kong, the Committee, in January, received a reply that the FSTB had agreed to give further consideration to The Law Society’s suggestion of possible law reform on insurance law in Hong Kong.

The legal developments on insurance law in other jurisdictions were learning examples for Hong Kong. In April, the Committee attended an informal online presentation by a professor in a university in the UK and received an update on insurance law reform processes in the UK, New Zealand, Australia and Singapore. The information was useful for the Committee to better understand the issues that had been addressed in other jurisdictions.

In August, the Vice-Chair of the Committee, together with chairs of other specialist committees, accompanied the President and Vice-Presidents to a meeting with the Secretary for FSTB. Various matters with policy implications were discussed at the meeting. Among other things, the urgent need for a law reform on insurance law and the potential development of insurance industry in the GBA were raised.

The Committee will continue its dialogue with the FSTB, the Insurance Authority and other stakeholders to discuss improvement to the insurance law regime in Hong Kong.

Consultation papers

The Committee considered and reviewed the following:

Stakeholder consultation on Draft Revised Guideline on Application for Authorisation to Carry on Insurance Business in or from Hong Kong (GL5)

The Committee considered a consultation paper on Draft Revised Guideline on Application for Authorisation to Carry on Insurance Business in or from Hong Kong (GL5), released by the Insurance Authority in February. The Committee produced a written submission, which was sent to the Insurance Authority in March.

Stakeholder consultation on proposed amendments to Module D of Guideline on Group Supervision

The Committee considered the Insurance Authority's proposed amendments to Module D of the Guideline on Group Supervision. The Committee's comments were sent to the Insurance Authority in August.

Other insurance law related issues

The Committee took note of the following:

- Outcome Related Fee Structures for Arbitration
- Levels of compulsory insurance for buildings in Hong Kong
- Judiciary's extended pilot scheme on Case Settlement Conference
- DoJ's consultation on review of the Talent List
- Public consultation on 2023-24 Budget.

INTELLECTUAL PROPERTY COMMITTEE

Discussions and reviews

The Committee has constantly been working hard in engaging on discussions of a number of different issues on the development of intellectual property ("IP") law and practices in Hong Kong. Apart from three internal virtual meetings, members of the Committee in June met with the Intellectual Property Department ("IPD") of the HKSAR Government and had extensive discussions on an array of IP matters. In addition, and from time to time, members of the

Committee attended meetings of various working groups and practice groups, as well as with other stakeholders including representatives from the IPD, to exchange views.

(a) Updating Hong Kong’s copyright regime

The Committee had pushed for the updating of the Hong Kong copyright law and prepared a submission in response to the public consultation on “Updating Hong Kong’s Copyright Regime”. The consultation was launched in November 2021. It picked up from the *Copyright (Amendment) Bill 2014* (“*2014 Bill*”) which was lapsed upon the expiry of the then Legislative Council term in July 2016. The main legislative proposals in the *2014 Bill* (i.e. exhaustive approach to exceptions, contract override, illicit streaming device and judicial site blocking) were recast in the consultation. The Committee considered it vital to update the law, supported adopting the proposals in the *2014 Bill* and advocated new issues for further consultation. A submission on the public consultation paper was rendered in February.

(b) Copyright Amendment (Bill) 2022

Following the above consultation, the *Copyright (Amendment) Bill 2022* (“*2022 Bill*”) was put forth and was gazetted on 27 May. The key legislative proposals of the *2022 Bill* were modelled on the *2014 Bill* and covered five main areas: (1) to introduce an exclusive technology-neutral communication right for copyright owners in light of technological developments; (2) to introduce criminal sanctions against infringements relating to the new communication right; (3) to revise and expand the scope of copyright exceptions to allow use of copyright works in certain common internet activities; facilitate online learning and operation of libraries, archives and museums; and allow media shifting of sound recordings, etc.; (4) to introduce “safe harbour” provisions to provide incentives for online service providers to co-operate with copyright owners in combating online piracy and to provide reasonable protection for their acts; and (5) to introduce two additional statutory factors for the court to consider when assessing whether to award additional damages to copyright owners in civil cases involving copyright infringements.

In support of the *2022 Bill*, The Law Society sent in a submission in August. In the submission, the Law Society urged for the expeditious passing of the *2022 Bill* in order to move on the discussion to other more contemporary issues. The more contemporary issues included (i) the feasibility of a copyright registration system for Hong Kong; (ii) the use of new technology to prove ownership and authenticity of works; (iii) a review of copyright ownership and protection issues relating to Artificial Intelligence (computer-generated) works and consideration of exceptions to copyright for text and data mining; (iv) a review of duration of copyright protection; and (v) treatment of “orphan works”. The Law Society also proposed more complex issues for policy considerations.

The Chair of the Committee also had meetings with a few Legislative Councillors to explain the *2022 Bill* and procure their support.

(c) Implementation of Madrid Protocol

To prepare for the implementation of the Madrid Protocol, the Committee and other stakeholders had a number of meetings within themselves and with the IPD (including a briefing session on 18 January) to consider matters such as progress for system

preparation, review of draft rules and training for IP legal practitioners in anticipation of the implementation of the Madrid Protocol. These meetings and reviews are continuing.

(d) Consultation on the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Bill and the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules

The Committee studied the above consultation issued by the DoJ and provided comments. Those comments were consolidated with comments from other committees and were sent to the DoJ in February.

(e) 2022 Policy Address

The Committee was invited to offer suggestions on the 2022 Policy Address for the Government. In the opinion of the Committee, the Government needed cross-bureau collaborations with educational institutions, industry bodies and public and private enterprises to devise and implement holistic policies and strategies to strengthen HKSAR's overall IP capability to meet the new opportunities and challenges. The above views were sent to the Government.

(f) Government 2022-23 Budget

Likewise, the Committee was consulted on the Government 2022-23 Budget. Members expressed that the formulation of relevant policies and sufficient fiscal support to the IPD on the development of a number of IP-related initiatives to help Hong Kong enhance her competitiveness in the IP landscape were important.

Promotion of IP

(a) Business of Intellectual Property ("BIP") Asia

The Law Society continued to be the supporting organisation to the 12th BIP Asia Forum. The Forum was jointly organised by the HKSAR Government, the Hong Kong Trade Development Council and the Hong Kong Design Centre. It brought together IP professionals and business leaders from around the world to discuss the latest developments in the IP world and to explore business collaboration opportunities. This year, the Forum was themed "Creating New Value, Discovering New Frontiers" and was held on 1 and 2 December. The Chair of the Committee was a member of the Steering Committee of the Forum and chaired the opening plenary session "Policy Dialogue – Aspiration to Action: Co-creating a Resilient and Sustainable Ecosystem".

The Committee again rendered support to the Forum. Four other committee members spoke at various break-out sessions of the Forum. As in the past, the sessions were well-attended.

(b) IP-backed financing webinar

The Law Society was a supporting organisation also for the IP-backed financing webinar, namely "Your IP Counts: Unlocking New IP-Backed Financing Options for New Economy

Companies”. The webinar discussed the case for popularising IP-backed financing in Hong Kong and intangible assets for growth. It took place on 24 May.

(c) IP Manager Scheme PLUS – IP Audit & IP Due Diligence

The IP Manager Scheme was first launched by the IPD in 2015 to assist, especially, small and medium enterprises (“SMEs”) in Hong Kong to build up their IP manpower capacity. The scheme was subsequently enhanced to become the IP Manager Scheme PLUS to provide greater breadth and depth to the contents of the training programme in order to cater for the specific career needs of IP managers. The Committee continued to support and assist the IPD in giving lectures for their training.

Under the PLUS Scheme, The Law Society co-organised two 2.5-hour seminars with the IPD on IP Audit and IP Due Diligence on 22 and 24 November. They were very well attended with excellent feedback.

(d) IP consultation sessions

The IP consultation sessions arranged by the IPD continued to receive support from the Committee. These sessions provided free preliminary advice to SMEs to help them raise their awareness of IP and its significance was mentioned in the Chief Executive’s Policy Address. In view of the continual demand for the consultation sessions, the Committee had helped to recruit more volunteers and agreed with the IPD to extend the duration of each consultation session to expand the service. Four members of the Committee also sit on the panel providing free IP consultation services.

Meetings

(a) Working Group on 14-5 IP-Related Plans for Hong Kong

Under the “Outline of the 14th Five-Year Plan for National Economic and Social Development of the People’s Republic of China and the Long-Range Objectives Through the Year 2035” put out at the 13th National People’s Congress in March, Hong Kong was to be developed to be a regional IP trading centre, an international innovation and technology hub and a hub for arts and cultural exchange between China and the rest of the world. IP is at the core of these roles. With this national policy in mind, a Working Group, comprising members of the Committee, the Asian Patent Attorney Association (Hong Kong Group), the Hong Kong Institute of Trade Mark Practitioners and the Bar Association, was formed to hold discussions and offered views to the Government on how to achieve those goals.

The chairs of the Committee and the other three organisations were also interviewed by *Hong Kong Lawyer* and an article about the development of Hong Kong as an IP trading hub was published in the June issue.

(b) Joint Annual Meeting with IPD, Asian Patent Attorneys Association Hong Kong and Hong Kong Institute of Trade Mark Practitioners

This joint meeting was held annually with the IPD and the other two professional groups to exchange views on IP practices and updates. The meeting this year was held in February.

At the meeting, members of the Committee were briefed on the legislative and practice updates and the work plan of the IPD for the year.

(c) Annual Meeting with IPD

Apart from the joint meeting, the Committee itself also had regular meetings with the IPD to discuss IP laws, practices and related matters. This year, a meeting was held in June.

(d) Meeting with the Legislative Councillor

In November, the Chair of the Committee, together with the chairs of a few specialist committees, had a meeting with a Legislative Councillor. The Chair relayed to the Councillor the urgency for the relevant legislative amendments on IP laws. He also raised with the Councillor the lack of a comprehensive policy on the development of IP in Hong Kong and the relevancy of designating a policy bureau to oversee policy directives for IP.

Assistance rendered to Council and to general membership

The Committee has also been rendering assistance to the Council of The Law Society on discussions on IP-related matters and where appropriate issued circulars to the general membership. Circulars for examples have been issued in the following:

- the update on the Trade Marks Registry Work Manual chapter on “Deficiencies checking”
- the *Madrid Agreement Concerning the International Registration of Marks* (Madrid Protocol)
- the update on Trade Marks Registry Work Manual chapter on “Search”
- the update on Trade Marks Registry Work Manual chapter on “Revocation of registration on grounds of non-use”
- the Patent Examination Guidelines
- the Trade Marks Registry Work Manual chapters on “Amendment of pleadings”, “Consolidation of proceedings”, “Procedure where leave is sought to file further evidence” and “Security for costs”.

External Representation

The Committee continued to be represented on the BIP Asia Steering Committee. The Committee also had representatives on the IPD’s Focus Group on Review of the Patent System in Hong Kong.

INVESTMENT PRODUCTS AND FINANCIAL SERVICES COMMITTEE

The Investment Products and Financial Services Committee received and considered consultations on matters relating to financial products and services. During the year, submissions were prepared on the following consultations from the Securities and Futures Commission:

- Proposed changes to the *Securities and Futures (Contracts Limits and Reportable Positions) Rules* and the *Guidance Note on Position Limits and Large Open Position Reporting Requirements*
- Proposed amendments to enforcement-related provisions of the *Securities and Futures Ordinance* (Cap.571).

Various Consultation Conclusions were brought to the attention of the Committee.

In December, the FSTB published a consultation paper on the proposal to enhance regulation of crowdfunding activities. The consultation paper set out various recommendations on enhancing the transparency and accountability of crowdfunding activities, which included requiring in-principle future crowdfunding activities to make an application and obtain permission before commencement, and ensuring sufficient transparency to the public during and after the conduct of crowdfunding activities. The Committee has conducted an in-depth study of the matter and was preparing a draft submission to the FSTB.

LEGAL AID COMMITTEE

The Committee met once and conducted the rest of its business via emails. It maintained an on-going dialogue with the Legal Aid Department on the development of and matters pertinent to the legal aid issues.

The Committee, in November, had an informal meeting with the Director of Legal Aid and his deputies to exchange views on various legal aid issues, including the enhancement measures to legal aid assignments, the processing of the legal aid applications, costs liability for unfavourable section 9 advice and the payment of costs to assigned solicitors/experts/mediators. The exchange of views at the informal meeting was fruitful and assisted the mutual understanding of issues and concerns.

The financial eligibility limits (“FELs”) under the legal aid schemes and the Director’s First Charge are to be reviewed annually. The Committee, in December, noted the Government proposed to adjust the FELs and the two specified amounts of Director’s First Charge upward by 3.0%. This improves access to legal aid.

Legal aid plays a significant role in upholding the rule of law in Hong Kong. The Committee will continue to keep a close watch on the legal aid system

MEDIATION COMMITTEE

The Committee reviews and makes recommendations on mediation-related matters for general members of The Law Society, solicitor-mediators, solicitor-mediation advocates and solicitor-parenting coordinators. It puts forward initiatives to help the promotion of mediation practice and the expansion of work opportunities for solicitor-mediators and solicitor-mediation advocates.

The Committee assists the Council to discuss and formulate policies on mediation-related matters and studies, and responds to various consultations. Members of the Committee attend external meetings (e.g. Legislative Council meetings) to help with discussions.

This year the Committee met twice and conducted the rest of its business via emails. An *ad hoc* working group was set up to help review specific matters.

Consultations relating to mediation

The Committee has considered and/or provided views on the following matters.

Revised Guidance Note for Case Settlement Conference in Civil Cases in the District Court

In October, the Judiciary invited The Law Society to provide views on the draft revised Guidance Note for Case Settlement Conference in Civil Cases in the District Court for the extended Pilot Scheme of Case Settlement Conference in the District Court. The Committee studied the draft revised Guidance Note and provided views. Those views were consolidated with views from other specialist committees for a joint submission to the Judiciary.

Government 2022-23 Budget

The Committee was consulted on the Government 2022-23 Budget. Members considered that support in the development and promotion of mediation in Hong Kong continued to be important, and advocated for continual policy attention on the development of mediation in Hong Kong. These and other comments were submitted to the Government.

Assistance in the development of mediation practices

The Committee had various deliberations on the assistance to be provided to solicitor-mediators and the general membership of The Law Society.

(a) Development of mediation in the GBA

Notwithstanding the COVID-19 pandemic, the Committee continued deliberation in the promotion for solicitor-mediators and solicitor-mediation advocates in Hong Kong and in the Mainland, including the GBA, and to explore opportunities for solicitor-mediators and solicitor-mediation advocates.

The development of mediation in the GBA continued to be one of the focused areas for discussion by the Committee this year. Among other things, the Committee noted and reviewed the GBA Mediator Accreditation Standards and *GBA Mediator Code of Conduct Best Practice*. These documents were on the accreditation of mediators and mediation practice in the GBA. They were endorsed at the 3rd Guangdong-Hong Kong-Macao Bay Area Legal Departments Joint Conference.

(b) Mediator mentorship scheme

A mentorship scheme was organised by the Joint Mediation Helpline Office to provide opportunities to the less experienced solicitor-mediators to work with more experienced mediators and to co-mediate real-life mediation cases conducted in the West Kowloon Mediation

Centre. Sponsorship was provided for those solicitor-mediators who participated in the above membership scheme. This sponsorship received continual support from the Committee. Members who meet the eligibility requirements could apply for the above sponsorship.

With the expiry of the mentorship scheme in June, the Committee was considering other assistance to be rendered to solicitor-mediators.

(c) *Hong Kong Solicitors' Guide to Professional Conduct*

To assist and update members on mediation practices, the Committee set up an *ad hoc* working group to review and propose amendments to the *Hong Kong Solicitors' Guide to Professional Conduct*. Proposed amendments to the *Guide* would be considered and endorsed by the Committee.

(d) Publication of sample mediation documents

The Committee noted that mediation practitioners and parties may encounter difficulties in various stages of mediation. To assist, the Committee has prepared various sample mediation documents for the purposes of mediation, such as the Sample Agreement to Mediate and the Mediation Rules. These sample documents are put on the website of The Law Society for free access by members and the general public.

(e) Participation in mediation-related events and activities

As its continual efforts to promote mediation services, the Committee proposed mediation-related CPD activities for the general membership, some of which are set out below:

- (i) "The Mediation Procedure – Why is this so Important?" (August)
- (ii) Sharing Session on "Mediator – Assisted Financial Dispute Resolution and Children's Dispute Resolution" (Cantonese session) (October)
- (iii) Sharing Session on "Mediator – Assisted Financial Dispute Resolution and Children's Dispute Resolution" (English session) (October)
- (iv) "International Commercial Mediations with Mainland Chinese Parties" (November)
- (v) "Pilot Scheme of Case Settlement Conference in District Court" (December)
- (vi) "*Ad hoc* Mediation or Administered Mediation" (December)

In addition, the Committee this year supported the following events relating to mediation:

- (i) Reciprocal Enforcement of Family Judgments – Cross Border Family Mediation Seminar (February)
- (ii) 2021/22 Investment Law and Investor-State Mediator Training in Hong Kong (March)
- (iii) Mediation Week 2022 and Mediation Conference 2022 (May)

- (iv) UNCITRAL WG III Forum (Investment Mediation) (May)
- (v) Mediation Advocacy Training Workshop 2022 (October)

(f) Other promotion for solicitor-mediators

To promote solicitors' mediation practices, the Committee has:

- reviewed the policies on solicitors' practice in mediation and parenting co-ordination ("PC");
- organised CPD activities on mediation, PC and related subjects;
- liaised with stakeholders on matters relating to mediation; and
- monitored and updated solicitors on the latest development of mediation, PC and early neutral evaluation in Hong Kong.

Provision of mediation services

The Committee assisted The Law Society to provide the following mediation services to the general public:

(a) Mediators Nomination Scheme

The Committee continues to provide nomination services for mediation to the public. Under the scheme, parties who have agreed to mediate their disputes but cannot agree on the choice of the mediator can jointly request The Law Society to nominate a solicitor-mediator to mediate their disputes.

(b) Pilot Scheme on Mediation Helpline

The Law Society's Mediation Helpline was launched in November 2014. The Helpline, under the supervision of the Committee, arouses public awareness of and understanding on mediation. It also helps promote mediation, as well as solicitors' mediation practices in Hong Kong. The Helpline was initially launched for a trial period of six months. During the trial period, a panel of solicitor-mediators, with the assistance of the Secretariat of The Law Society, provided information on mediation and mediation services to the public. The Helpline received encouraging feedback and the trial period of the Helpline was repeatedly extended.

MENTAL HEALTH LAW COMMITTEE

The Mental Health Law Committee considers policy proposals for the reform of the mental health regime in Hong Kong. The Committee met six times this year, in addition to task group meetings and email communication. It also had various communication with the Judiciary on practice issues on mental health law and practices. In addition, the Committee made recommendations on mental health issues and training to other committees and the Academy of Law.

Review of *Mental Health Ordinance*

The Committee continued its review of the *Mental Health Ordinance* (Cap.136) (“MHO”). Task groups were set up under the Committee to review different parts of the MHO. These task groups met on various occasions to, among other things, deliberate the requisite updates on mental health law practices under the MHO, and rendered recommendations to the Committee.

Practice Direction 30.1

Apart from the review of the MHO, the Committee had, with the assistance of the task groups and the Official Solicitor’s Office reviewed the *Practice Direction 30.1* on applications under Part II of the MHO and proposed amendments thereto. Amendments were proposed to improve the relevant practices for the court (in hearing MHO applications), the legal profession and the general public. In response, the Committee received helpful comments from various stakeholders and was in the process of refining its proposals for practices under *Practice Direction 30.1*.

Courses and seminars

A task group set up under the Committee was engaged in the review of and the making of recommendations for training to general members on subject matters relating to mental health law. On the recommendation of the task group and with the support of the Committee, an RME Course on “Risks in Preparing Enduring Power of Attorney and Mental Capacity Issues” was held on 14 October. The Chair and members of the Committee together with members from the Probate Committee and the Working Party on Enduring Powers of Attorney spoke at the RME course. The course was well-received.

Policy Address

In the submission to Policy Address, the Committee again raised the problem of an ageing population in Hong Kong and the need to expedite the legislative process of the Continuing Powers of Attorney. The Committee urged that a roadmap ought to be made known to the public. In the same submission, the Committee also alerted the Government on reported cases of mentally-challenged persons being exploited in the jobs and suggested that both public education and law enforcement would need to be stepped up.

Other collaborations and reviews

The Committee has been working with other specialist committees of The Law Society to review different matters related to mental health and court proceedings. Among other things, the Committee considered the *Guideline on Banking Services for Persons with Dementia* issued by the HKAB, video-link medical examinations with respect to people with cognitive impairment or with mental health condition and the “Three Instruments of Peace” (i.e. enduring power of attorney, advance (medical) directives and wills). Views on the above were shared with other specialist committees of The Law Society.

PERSONAL INJURIES COMMITTEE

The Personal Injuries Committee met on four occasions this year. In addition, it had a meeting with a Legislative Councillor to discuss proposed legislative amendments relevant to personal injuries practice.

Bereavement awards

The Committee has been advocating increases in bereavement awards in order to meaningfully reflect the nature of this award, and also that there should be a better methodology of assessing the award. The Committee has written to the DoJ on the updating of the awards, and is following up this matter with the Government.

Levels of compulsory insurance for buildings

The level of third-party risk insurance for buildings is laid down in Regulation 4 of the *Building Management (Third Party Risks Insurance) Regulation* (Cap.344B). The figure of \$10 million insurance set out in the Regulation has not been reviewed in the past 15 years. Such coverage is seriously outdated and no longer provides sufficient protection for owners of private flats facing potentially large third-party claims. The Committee has written to the Government bureau, the Legal Aid Department and an association of property managers to highlight the inadequate levels of third-party risk insurance and the effect this may have on owners of private flats and claimants who may need to seek recovery from them.

Amendments to *Practice Directions*

The Committee has received from its members draft proposed amendments to *Practice Direction 18.1* and *Practice Direction 30.1*. These draft amendments concentrate on persons under a disability. The Committee was reviewing the drafts.

Single joint experts

The Committee noted there were cases whereby medical experts engaged in a personal injuries or medical negligence claims tended to prepare their reports in such a manner that they were in effect advocating on behalf of the party who engaged them. Impartiality of experts in such cases was lost. This practice gave rise to a number of negative consequences. To address this concern, the Committee was deliberating the practice on the use of single joint experts for personal injuries cases and medical negligence claims.

Consultations

The Committee understood that the EOC was developing a guide to serve as a non-binding reference tool and resource for both persons who are deaf and hard of hearing and legal practitioners including solicitors, barristers, judges, legal aid officers and court administrators. A consultation paper on this was put forward. The consultation paper canvassed issues on access to justice for persons who are deaf and hard of hearing. With the principles set out in the paper, the EOC hoped to facilitate communication between parties in the justice system and to achieve the goal of equal access to justice for all in the long run.

The Committee reviewed the consultation paper and offered comments on matters such as the challenges faced by court users with hearing impairments, the approaches to be adopted when engaging these court users, as well as the microphone and sound amplification systems for courtrooms. These comments were consolidated with those of other specialist committees and were sent to the EOC in July.

General work

The Committee also assisted other specialist committees with consultations on various practice areas. This year, the Committee received invitations to study the draft *Courts (Remote Hearing) Bill*, consultation questions on the potential and likely economic and other related impacts on Hong Kong of a class action regime, the Outcome Related Fee Structures for Arbitration, and the Vine Formula. Comments were relayed to the other specialist committees for deliberation.

Review of employees' compensation proceedings

The Committee noted the *Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Bill 2022*, as well as a review by the Panel of Manpower of the Legislative Council of the levels of compensation under the *Employees' Compensation Ordinance* (Cap.282), the *Pneumoconiosis and Mesothelioma (Compensation) Ordinance* (Cap.360) and the *Occupational Deafness (Compensation) Ordinance* (Cap.469).

PROBATE COMMITTEE

During the year, the Probate Committee met four times and conducted the rest of its business via emails.

The Committee considered various matters on probate law and practices and offered views on the following:

- Form No. 52 in Appendix A of the *Rules of the High Court* (Cap.4A)
- Video-viewing for enduring powers of attorney
- Stamp duty on deeds of family arrangements
- Probate practice – preparation and execution of wills
- Surety guarantee
- *Courts (Remote Hearing) Bill*.

The Committee received member enquiries on probate practices and procedures and assisted in processing applications for publication in the weekly *Enquiries from Solicitors on Wills, Codicils and other Testamentary Dispositions*. A total of about 509 will search enquiries were received and processed during the year.

Members' circulars where appropriate were issued on the above.

The Committee also contributed to the training of legal practitioners by making suggestions on and providing CPD/RME training on probate practices. This year, upon recommendation of the Committee, a CPD webinar on "Digital Property and Probate" was organised by the Academy

of Law in July. A member of the Committee spoke at that webinar. In September, another Committee member helped deliver presentations for the Academy of Law on a webinar on intestate and testate succession. In October, the Chair of the Committee and a member of the Committee spoke at an RME course proposed by the Mental Health Law Committee on “Risks in Preparing Enduring Power of Attorney and Mental Capacity Issues”. All the courses were well-received.

PROPERTY COMMITTEE

The Committee had another challenging year. It had busily been engaging with different Government departments and organisations to discuss various property-related issues, a number of which required urgent attention and comprehensive studies. In addition to the regular monthly meetings, the Committee also considered issues and legislative proposals on conveyancing practices by *ad hoc* meetings and email circulations.

The Committee and its working parties from time to time received applications from general members for waivers of Deed of Mutual Covenant (“DMC”) Guidelines as well as applications for exemptions/deviations from forms of Agreement for Sale and Purchase, as approved under Rule 5C of the *Solicitors Practice Rules* (Cap.159H).

Where relevant, members’ circulars were issued on various subject matters.

Some of the matters considered by the Committee during the year are summarised below.

Payment arrangements for property transactions (“PAPT”)

One of the important matters in which the Committee was busily engaged this year was the PAPT proposed by the HKAB. The Committee had many lengthy discussions with the FSTB, the Hong Kong Monetary Authority and the HKAB on the legal issues involved in the proposed payment arrangements, the logistics on its implementation, as well as any consequential amendments to the documents in use for conveyancing. The issues were not straightforward as they not only involved complicated legal concepts but also called for a thorough understanding of day-to-day conveyancing practices. A huge amount of time was spent explaining to the HKAB and the relevant Government bureau the above issues, including the potential implications of the proposal to the legal profession, the stakeholders and the general public. Importantly, to ensure that the interests of the public and the stakeholders were sufficiently protected, the Committee liaised with the HKAB and the relevant Government departments on numerous occasions to seek clarifications on the proposal.

The Committee noted that, following extensive discussions and meetings, the initial draft proposal for the PAPT had been revised. The revised proposal was put out on 7 November as an option for payment arrangement for residential mortgage refinancing transactions for bank customers.

To assist members in advising their clients on the above matter, the Committee prepared and provided a template of solicitors’ undertaking for members acting for bank customers seeking mortgage refinancing and opting to use PAPT for payment arrangement. A circular was also issued prior to the launch of the PAPT to advise members on the PAPT documents on refinancing,

the Refinancing Mortgage Institution Confirmation template, sample clauses for facilities letters, e-leaflet for customer communication, as well as the continual relevancy of solicitors' undertakings and obligations in conveyancing transactions.

Land Titles Ordinance (Cap.585) (“LTO”)

The Committee continued to be engaged in lengthy discussions and meetings on the implementation of the LTO. Deliberations, both internally and with the Land Registry, were held. There were in-depth discussions on the technical and conceptual issues under the “New Land First Proposal”, and a significant amount of time was spent considering difficult matters such as verification of applications for registration under the LTO, the new forms proposed to be used under the LTO, rectification of title, indemnity as well as consequential amendments to the *Conveyancing and Property Ordinance* (Cap.219). These issues took up a very large amount of time of the Committee, which had carefully gone through the relevant laws and procedures and the related conveyancing documents.

One of the fundamental concerns that the Committee had been focusing on was the protection of the general public under the LTO following its implementation. The Committee was adamant that the interest of the public must not be compromised under the LTO or the simplified conveyancing procedures proposed thereunder. In this regard, the Committee noted that, after lengthy discussions and exchanges of correspondences with the Land Registry, the Land Registry agreed to raise the indemnity cap to HK\$50 million (as compared to HK\$30 million proposed when LTO was enacted in 2004). Indemnity (subject to the abovementioned cap) was important in protecting those who suffered loss in ownership due to fraud. An increase in the cap would strengthen protection under the title registration system.

The Committee had also been asking that adequate security be built into the land registration system in order to protect the public against fraudsters. The Committee was pleased to note that after various discussions with the Land Registry, the Land Registry agreed that title certificates with anti-forgery features would be issued automatically to registered owners upon, among others, registration of transfer.

Another matter that the Committee had been diligently discussing with the Land Registry was the liability of solicitors under the LTO and the statutory requirement on solicitors' verification of an application for registration under the LTO.

The proposal of implementing title registration on “newly granted land” received the attention of the Legislative Council. The Panel on Development of the Legislative Council scheduled a discussion on 19 December. On the other hand, the Committee was given to understand that the drafting of the *Land Titles (Amendment) Bill* would commence after the above Panel discussion, and that the Bill was targeted to be introduced to the Legislative Council in early 2024.

Property fraud

The issue of property fraud was continually discussed by the Committee; victims of property fraud could lose most if not all of their lifelong savings.

The issues involved in fraud cases were highlighted in the UK Court of Appeal judgments in *P&P Property Limited v Owen White & Catlin LLP, Crownvent Limited and Dreamvar (UK)*

Limited v Mishcon De Reya (a firm), Mary Monson Solicitors Limited [2018] EWCA Civ. 1082. It involved a number of difficult legal issues such as breach of trust, breach of undertaking and fiduciary duties. These issues were by no means straightforward.

The Committee noted that, in order to protect the public from imposter fraud, close cooperation with other relevant stakeholders was necessary. As such, the Committee sought discussions and meetings with the HKAB, the relevant Government bureau and other stakeholders to consider how imposter fraud in conveyancing transactions could be tackled. With the benefit of an advising counsel, the Committee put forward proposals to try to address the problem of imposter fraud. The above discussions were continuing.

DMC under land grant

The Legal Advisory and Conveyancing Office of the Lands Department (“LACO”) drew up a set of standard clauses and revised several guidelines for DMC under conditions of the land grant. In parallel with and in consequence of the above promulgation, the Committee reviewed The Law Society’s own DMC Guidelines. For the benefit of the general membership, the Committee and a dedicated working party were studying various revised DMC Guidelines drawn up by the LACO.

Non-Consent Scheme

The Committee kept under its review any improvements to the Non-Consent Scheme, to provide better protection for the public. The discussion was continuing.

Pamphlet on tenancy

The Committee noted that the *Landlord and Tenant (Consolidation) (Amendment) Ordinance 2021* (“2021 Ordinance”) took effect on January 2022. The 2021 Ordinance regulates tenancies of subdivided units. To assist the public in better understanding the 2021 Ordinance, the Committee expanded The Law Society’s information pamphlet on “Protection of Domestic Tenant” to include the salient features of the 2021 Ordinance. The updated pamphlet was available in the public zone of The Law Society website for ready reference by the general public.

Use of information technology

The Committee kept itself advised on the development of information technology in conveyancing practices. Among other things, the Committee had been reviewing proposals on e-lodgment by the Land Registry.

Other property-related issues

The Committee also considered various practice-related matters and, where appropriate, issued circulars to general members on (*inter alia*) the latest practice notes issued by the Buildings Department, the Lands Department, the Planning Department and the Land Registry.

Examples of the circulars issued included:

- the Lands Department Practice Notes
- LACO Circular Memorandum
- Land Registry Circular Memorandum
- Hong Kong Housing Authority – White Form Secondary Market Scheme/Hong Kong Housing Authority Change of Delivery Address for Application and Collection of Letter of Nomination
- Land Registry – Latest Arrangements for Search of Land Records and Owners’ Corporation Records
- Land Registry – Expiry of the 2012 Version of e-Memorial Form
- Hong Kong Housing Authority – Application Fee for Letter of Nomination under the HOS Secondary Market Scheme by the Hong Kong Housing Authority
- PThe PAPT
- Land Registry – Launch of Web Version of e-Memorial Form
- COVID-19 Pandemic and Estimated Material Date for the Consent Scheme
- Sale and Purchase of Property – Payment of Rates and Government Rent
- Lands Department – Strict Observance of Government Lease Conditions for Redeveloped Industrial and/or Godown Lots
- The PAPT – A Webinar
- Revised Guidance Notes on Tree Preservation and Removal Proposal for Building Development in Private Projects under the Lands Department Practice Note
- The PAPT – For Mortgage Refinancing Transactions.

External Work

Land Registry

The Chair of the Committee sat on the LTO Steering Committee. The Steering Committee oversaw an LTO Review Committee and a Title Registration Education Committee. The Law Society was also represented on the above two committees.

Land Registry Joint Standing Committee

Two Committee members sat on the Land Registry Joint Standing Committee to keep in touch with the Land Registry on day-to-day issues relating to land registration matters and the Land Registry’s services.

Land Registry Customer Liaison Group

A committee member and representatives from five law firms sat on the Land Registry Customer Liaison Group to exchange views on operational and service delivery issues with the Land Registry.

Taskforce on Alternative Payment Solutions for Property Transactions

The Chair and five members sat on the Taskforce on Alternative Payment Solutions for Property Transactions set up by the HKAB, to discuss and to propose payment methods for property transactions.

Urban Renewal Authority

The Urban Renewal Authority set up a Registration Panel and an Appeal Panel of Building Rehabilitation Company Registration Scheme of Hong Kong Building Rehabilitation Facilitation Services Limited. The Panels commenced operation in 2022. The Registration Panel is to consider and endorse the registration of service providers, and the Appeal Panel is to determine and conduct final resolution of complaints, appeals/disputes relating to applications. The Law Society was represented on both Panels.

The Law Society also sent representatives to the Service Providers Committee and the Promotion Committee under the Urban Renewal Authority.

RETIREMENT SCHEMES COMMITTEE

During the year, the Retirement Schemes Committee conducted its business via emails.

The Committee considered the following:

(a) ***Employment and Retirement Schemes Legislation (Offsetting Arrangement) (Amendment) Bill 2022***

The Government gazetted the *Employment and Retirement Schemes Legislation (Offsetting Arrangement) (Amendment) Bill 2022* on 11 February. The Bill aimed to abolish the use of the accrued benefits of employers' mandatory contributions under the Mandatory Provident Fund System to offset severance payment and long service payment.

(b) **eMPF Platform front-end portal consultation**

On 26 May, members of the Committee and the Employment Law Committee attended a presentation on "eMPF Platform Front-end Portal Demonstration and Consultation" arranged by the MPFA and its service provider. The eMPF Platform aimed to standardise, streamline and automate the MPF scheme administration through a centralised electronic platform. The eMPF Platform was developed by the MPFA and the eMPF Platform Company. Comments on the operation of the eMPF Platform were provided.

In addition, the Committee considered the following updates on and amendments to the Mandatory Provident Fund (MPF) schemes, and issued circulars to general members.

- Guidelines on MPF Intermediary Registration and Notification of Changes (Guidelines VI.1)
- Guidelines on Annual Returns to be Delivered by Registered Intermediaries (Guidelines VI.3)
- Guidelines on Application for Approval of Constituent Funds (Guidelines I.5)
- Guidelines on Determining Relevant Rate of Administration Fee for Constituent Fund by Mandatory Provident Fund Schemes Authority (Guidelines VII.1)
- Guidelines on Default Investment Strategy (Guidelines III.14)
- Code on Disclosure for MPF Investment Funds

- Guidelines on Annual Statements of Registered Schemes (Guidelines II.4)
- Guidelines on Annual Statements of Approved Pooled Investment Funds (Guidelines II.5)
- Guidelines on Contribution Arrangement for a Self-employed Person Who Sustains a Loss (Guidelines IV.18)
- Guidelines on Central Securities Depositories (Guideline I.7)
- Guidelines on Index-Tracking Collective Investment Schemes (Guidelines III.10).

External Representation

The Committee continued to be represented in the MPFA Guidelines Committee.

REVENUE LAW COMMITTEE

During the year, the Revenue Law Committee conducted its business via emails.

Inland Revenue (Amendment) (Taxation on Specified Foreign-sourced Income) Bill 2022

In October, the Chair of the Committee attended a briefing session on the Government's legislative proposal to refine the foreign-sourced income exemption regime for passive income in Hong Kong.

The Committee's attention was, on the other hand, brought to the *Inland Revenue (Amendment) (Taxation on Specified Foreign-sourced Income) Bill 2022*. Gazetted on 28 October and introduced into the Legislative Council on 2 November, the Bill sought to provide a new framework for Hong Kong's foreign-sourced income exemption regime. The Bill was passed by the Legislative Council on 14 December and was to take effect on 1 January 2023.

Consultation on Potential Tax Treaty Partners for Hong Kong

In December, the Committee received from the Government a consultation paper on Potential Tax Treaty Partners for Hong Kong. The Committee offered comments on jurisdictions to which the Government should accord priority in commencing negotiations on Comprehensive Avoidance of Double Taxation Agreements.

Joint Liaison Committee on Taxation

Two Committee members, as representatives of The Law Society, attended regular meetings of the Joint Liaison Committee on Taxation throughout the year.

REVERSE MORTGAGE COMMITTEE

The Reverse Mortgage Committee reviewed issues relating to the Reverse Mortgage Programme and made recommendations thereon to the Standing Committee on Practitioners Affairs where

appropriate. During the year, the Committee had various communications with the Hong Kong Mortgage Corporation Limited on proposals to streamline and improve the Reverse Mortgage Programme. On 15 December, a members' circular on the amendments to the Counselling Protocol for the Reverse Mortgage Programme was issued.

SPORTS LAW COMMITTEE

The Sports Law Committee was set up in October to, among other things, keep under review developments in members' practices relating to various legal aspects arising from and relating to sports and e-sports, including dispute resolution for sports and e-sports in Hong Kong and other jurisdictions, and to make recommendations thereon to the Council. The Committee co-opted members to commence some of its work and would conduct a further co-option exercise in due course.

TRANSPORTATION AND LOGISTICS COMMITTEE

During the year, the Transportation and Logistics Committee conducted its business via emails.

Legislative proposal to implement the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and the HKSAR

The Committee reviewed a Consultation Paper issued by the DoJ on a legislative proposal to implement the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and the HKSAR. The views of the Committee, together with those from other specialist committees, were consolidated into a submission which was sent to the DoJ in February.

Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Bill 2022

The Committee took note that the *Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Bill 2022* was gazetted on 25 March and introduced into the Legislative Council on 30 March. On 30 September, the Chair and a member of the Committee attended a workshop organised by the DoJ on the draft *Arbitration (Outcome Related Fee Structures for Arbitration) Rules*.

Sale of Goods (United Nations Convention) Ordinance (Cap.641)

The Committee took note that the *Sale of Goods (United Nations Convention) Ordinance (Cap.641)* was gazetted on 30 June and came into operation on 1 December. The Ordinance seeks to implement the *United Nations Convention on Contracts for the International Sale of Goods* in the HKSAR.

WORKING PARTY ON CHARITIES AND TRUST

Review of trust regime in Hong Kong – recommendations and proposals

During the year, the Working Party on Charities and Trust conducted a comprehensive review of the trust regime of Hong Kong and prepared a very detailed paper setting out various recommendations for improvements.

The paper made three major recommendations: (i) to amend the *Trustee Ordinance* (Cap.29) to make Hong Kong trusts more competitive, attractive and versatile; (ii) to improve the regulatory framework for professional trustee companies in Hong Kong dealing with private wealth; and (iii) to review the tax treatment of trusts, trustees, trust investment vehicles and trust distributions in Hong Kong.

The proposals and recommendations were sent to the Government and the stakeholders in February for consideration. The Working Party received a number of positive responses indicating support.

In May, two members of the Working Party met with a Legislative Councillor and exchanged views on the modernisation of Hong Kong trust law and the development of family offices in Hong Kong.

In August, the Chair of the Working Party, together with the office bearers and representatives of other specialist committees, met with the Secretary for FSTB, at which, among other matters, issues relating to charities and trust regime in Hong Kong were discussed.

The Working Party is keen to keep up the momentum on these issues and will continue its efforts to liaise with the Government on them.

Consultation paper on regulation of crowdfunding activities

The Working Party commented on a consultation paper on regulation of crowdfunding activities released by the FSTB in December.

WORKING PARTY ON ENDURING POWERS OF ATTORNEY

During the year, the Working Party on Enduring Powers of Attorney continued its discussion on, among other things, ways to provide for the use of Enduring Powers of Attorney in Hong Kong. It assisted other specialist committees of The Law Society in their deliberations on matters relating to Enduring Powers of Attorney. On 14 October, a member of the Working Party spoke at an RME course on “Risks in Preparing Enduring Power of Attorney and Mental Capacity Issues” together with members from the Mental Health Law Committee and the Probate Committee. The course was well-attended.

WORKING PARTY ON PAPER ADMISSION OF SOLICITORS

During the year, the Working Party on Paper Admission of Solicitors continued its review on the current procedures for admission of solicitors. It met on three occasions and conducted the rest of its business via emails. In addition, the Working Party had a meeting with the Judiciary in May.

In the course of its deliberations, the Working Party took note of the Judiciary's draft *Courts (Remote Hearing) Bill*. It looked into the Bill to consider whether and, if so, how the Bill would assist or impact upon any proposals for paper admission of solicitors. Comments from the Working Party and other specialist committees were consolidated into a submission, which was sent to the Judiciary in September.

WORKING PARTY ON REVIEW OF NON-CONSENT SCHEME FORMS

The Working Party on Review of Non-Consent Scheme Forms keeps in view, among others, developments and updates on law and practices in conveyancing as well as agreement forms and amendments issued by the LACO on agreements for sale and purchase of residential and non-residential properties under the Consent Scheme. It also reviews the agreement forms for the use of the Non-Consent Scheme with reference to the amendments by the LACO on the forms under the Consent Scheme.

During the year, the Working Party held two meetings to review the following draft agreement forms for use of the Non-Consent Scheme:

- (a) sub-sale and purchase agreements of residential property for uncompleted and completed developments
- (b) agreement form for sale and purchase of non-residential properties for uncompleted developments.

Amendments to the sub-sale and purchase agreements of residential property for uncompleted and completed developments were suggested and considered by the Property Committee and the Council.

The Working Party was, on the other hand, working on the set of draft agreement form for sale and purchase of non-residential properties for uncompleted developments under the Non-Consent Scheme.

WORKING PARTY ON REVISED DMC GUIDELINES

The Working Party on Revised DMC Guidelines was set up to, among other things, review the proposed revision by the LACO to the guidelines for the drafting of the DMC under the Consent Scheme.

During the year, the Working Party held two meetings, respectively in May and October, to consider amendments proposed to The Law Society's Guidelines for DMC and Sub-DMC. Recommendations on revision of Guidelines 18, 34(a)(iv) and 41 under the Non-Consent Scheme were relayed to the Property Committee for deliberation.

WORKING PARTY ON TAXATION IN CIVIL PROCEEDINGS

The Working Party on Taxation in Civil Proceedings is tasked to review taxation practices in civil proceedings. During the year, the Working Party met once and conduct the rest of its business via emails.

The Working Party conducted a review on the question of costs of or incidental to remote hearings and use of court technology for civil proceedings. It aimed to identify issues, concerns and/or difficulties civil practitioners could face, potentially or otherwise, on costs relating to remote hearings and related issues such as preparation of e-Bundles. To canvass issues on the above, the Working Party issued circulars in August and September to invite observations, comments or suggestions from the general membership. It also had a meeting with the Hong Kong Law Costs Draftsmen Association in October to exchange views. Among other things, the Working Party was reviewing those issues by reference to how the costs incurred in the preparation of remote hearings and e-Bundles were taxed in comparable jurisdictions.

WORKING PARTY ON USE OF IT IN JUDICIAL PROCESS

During the year, the Working Party on Use of IT in Judicial Process conducted its business via emails.

The Working Party considered the following consultation papers released by the Judiciary and provided comments to the other specialist committees for discussion and/or consolidation into submissions:

- Judiciary's ITSP: Amendment Rules and Commencement Notice for Stage 1
- Draft *Courts (Remote Hearing) Bill*.

The Working Party took note of the discussions of the AJLS Panel of the Legislative Council on promoting and facilitating wider use of Lawtech at the Panel meeting on 25 April.